

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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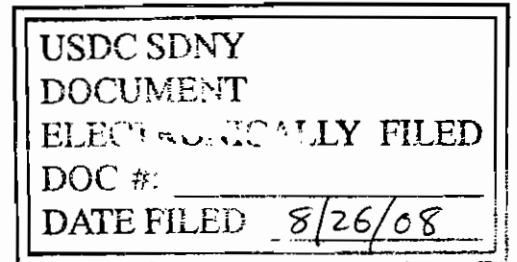
BUILDING TRADES EMPLOYERS' ASSOCIATION :
on behalf of THE NEW YORK PLAN FOR THE :
SETTLEMENT OF JURISDICTIONAL DISPUTES, :
Plaintiff, :

08 Civ. 4564 (DLC)

ORDER

-v-

JOHN E. MARCHELL, in his official :
capacity as President of LOCAL UNION 3, :
INTERNATIONAL BROTHERHOOD OF ELECTRICAL :
WORKERS and LOCAL UNION 3, :
INTERNATIONAL BROTHERHOOD OF ELECTRICAL :
WORKERS, :
Defendants. :



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DENISE COTE, District Judge:

On August 15, 2008, the National Labor Relations Board ("NLRB") issued a decision in a labor dispute between two union locals over the performance of elevator modernization work at Lefrak City in Queens, New York. Having prevailed in the NLRB decision, defendant Local 3 of the International Brotherhood of Electrical Workers requests that the complaint in this action be dismissed.

As described in an Opinion of June 13, this Court stayed the issuance of an injunction to enforce an arbitration award until late August 2008 to permit the NLRB to resolve this jurisdictional dispute. Building Trades Employers' Association ex rel. New York Plan for the Settlement of Jurisdictional


Disputes v. Marchell, No. 08 Civ. 4564, 2008 WL 2421634, at *1 (S.D.N.Y. June 13, 2008). As the June 13 Opinion found, an NLRB ruling would take precedence over the arbitration award. Id. at *2. Indeed, the NLRB appears to have acted with expedition in recognition of the fact that the stay was issued so that the NLRB could address the issues presented in this litigation. Local 3, International Brotherhood of Electrical Workers, 352 N.L.R.B. No. 124, 2008 WL 3877141, at n.6 (Aug. 15, 2008).

In submissions of August 25, the plaintiff and intervenor have opposed Local 3's request that this action be dismissed by presenting arguments which were described and resolved against them in the June 13 Opinion. Accordingly, it is hereby

ORDERED that this action is dismissed in light of the August 15, 2008 NLRB decision. The Clerk of Court shall close the case and terminate all pending motions.

SO ORDERED:

Dated: New York, New York
August 26, 2008



DENISE COTE
United States District Judge